

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Re:	}	Case No. 13-20060-JKF
	}	
Major R. Rainey,	}	
Debtor,	}	Chapter 13
	}	
	}	
Major R. Rainey,	}	Doc. No. _____
Plaintiff,	}	
	}	
vs.	}	
	}	Adv. Pro. No. 13-
JPMorgan Chase Bank, N.A.,	}	
Defendant.	}	
	}	

**AMENDED COMPLAINT PURSUANT TO 11 U.S.C. §506 AND BANKRUPTCY RULE
7001 TO DETERMINE THE VALUE OF CREDITOR'S ALLOWED SECURED CLAIM**

AND NOW comes the Plaintiff, Major R. Rainey, by and through his counsel, the Pittsburgh Bankruptcy Center, LLC, and files the within COMPLAINT PURSUANT TO 11 U.S.C. §506 AND BANKRUPTCY RULE 7001 TO DETERMINE THE VALUE OF CREDITOR'S ALLOWED SECURED CLAIM and in support thereof aver as follows:

I. PRELIMINARY STATEMENT

1. This is an action under 11 U.S.C. § 506 of the US Bankruptcy Code and Bankruptcy Rule 7001 to determine the value of creditor's allowed secured claim and the extent of creditor's lien in Debtor's real property located at 801 Cherokee St., Pittsburgh (5th Ward), PA 15219, in which a first mortgage is held by JPMorgan Chase Bank, N.A.
2. This Court has jurisdiction under 28 U.S.C. § 1334 and §157 (b)(2)(K). This is a core proceeding.
3. Plaintiff's action for declaratory relief is authorized by 28 USC §2201 and §2202.

II. PARTIES

4. Plaintiff is Major R. Rainey, adult individual residing at 2415 Allequippa Street, Apt 110, Pittsburgh, PA 15213.
5. Plaintiff is the Debtor in the above-captioned bankruptcy case.
6. Defendant, JPMorgan Chase Bank, N.A., is a banking institution with a principal place of business located at 3415 Vision Drive, Columbus, OH 43219.

III. FACTUAL ALLEGATIONS

7. On January 4, 2013, the Debtor filed a voluntary petition in bankruptcy under Chapter 13 of the Bankruptcy Code.
8. At the time of the filing of said petition, the Debtor was owner of real property located at 801 Cherokee St., Pittsburgh (5th Ward), PA 15219. The property is not the Debtor's principal residence.
9. The fair market value of Debtor's real property located at 801 Cherokee St., Pittsburgh (5th Ward), PA 15219 is \$10,000.00. A comparative market analysis was prepared by Real Estate Broker Judith K. Ginyard. A copy of the report is attached hereto and made a part hereof and labeled as **Exhibit "A"**.
10. JPMorgan Chase Bank, N.A. holds a first mortgage in the amount of \$17,457.74. This mortgage encumbers Debtor's real property located at 801 Cherokee St., Pittsburgh (5th Ward), PA 15219. As of the filing date of this Adversary Proceeding, no proof of claim for this debt has been filed.
11. The mortgage was first recorded in the Recorder of Deeds Office of Allegheny County on August 20, 2001 at Mortgage Book Volume 21312, Page 499.
12. The following liens are secured against the property located at 801 Cherokee St., Pittsburgh (5th Ward), PA 15219.
 - a. The Pittsburgh Water & Sewer Authority holds a municipal lien against the real property located at 801 Cherokee St. for the sewage charges from 2011-2013 in the amount of \$624.16; (**Exhibit B**)

- b. Allegheny County holds a lien against the real property located at 801 Cherokee St. for the 2013 real estate taxes in the amount of \$169.81; **(Exhibit C)**
 - c. The total of all liens against the property prior to the application of JPMorgan Chase Bank, N.A.'s mortgage is \$793.97.
13. Plaintiff proposes to bi-furcate the claim of JPMorgan Chase Bank, N.A. into a secured claim to the extent of the value of Debtor's real property minus any liens and an unsecured claim for the balance remaining on its claim.
14. Pursuant to 11 U.S.C. §506(a) the allowable secured claim of JPMorgan Chase Bank, N.A. is \$9,206.03 and the remaining \$8,251.71 should be treated as an unsecured claim. This loan may be "stripped down" and is not subject to the exception provided by 11 U.S.C. 1322(b)(2).

WHEREFORE, the Debtor, Major R. Rainey, respectfully requests this Honorable Court enter an order declaring that JPMorgan Chase Bank, N.A.'s mortgage lien in the property located at 801 Cherokee St., Pittsburgh (5th Ward), PA 15219 is valued at \$9,206.03; that the allowed secured claim of Defendant on it's mortgage is determined to be \$9,206.03; that the \$8,251.71 remaining on JPMorgan Chase Bank, N.A.'s mortgage is determined to be an unsecured claim; and any other relief the Court deems just and proper.

Respectfully submitted,

Dated: **April 5, 2013**

/s/ James M. Berent, Esq.

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